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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,558	02/19/2004	Willis J. Mullet	WAY.P.US0075	6336

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Phillip L. Kenner  
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER  
Fourth Floor  
First National Tower  
Akron, OH 44308-1456

EXAMINER
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BROWN, VERNAL U

ART UNIT	PAPER NUMBER
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2612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/782,558

Applicant(s)

MULLET ET AL.

Examiner

Vernal U. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24, 26-31, 33-37 and 50-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-24, 26-31, 33-37 and 50-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is responsive to communication filed on December 22, 2006.

#### ***Response to Amendment***

The examiner has acknowledged the amendment of claim 1 and the cancellation of claims 38-49.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-24, 26-31, 33-37, 50-53 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Double Patenting***

Claim 27 and 28 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 4 and 14 respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 2, 4-8, 14-15, 27-28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Madau US Patent 6593856.

Regarding claim 1, Brinkmeyer et al. teaches an operator system for a motorized barrier, comprising:

an operator (2) that receives wireless signals to controls a motorized barrier (col. 3 line 64-col. 4 line 4);

a device (3a) that controls an electrical load such as the door of the house (col. 4 lines 29-34) and the transmitted wireless operational signal from transmitter (1) is recognizable by the operator (2) and the device (3a) for the independent operation of the operator and the device (col. 4 lines 23-39). Brinkmeyer et al. is however silent on teaching the transmitter generates control signal to the operator and the device based on the actuation of a single button. Madau in an art related home automation invention teaches transmitting control signal to operate appliances in a home and the automatic garage door operator base on the actuation of a single control element of the transmitter (col. 3 lines 3 lines 9-35).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Madau because using a single button of the remote transmitter to control a garage door operator and the device simplifies the operation of the remote control.

Regarding claim 2, Brinkmeyer et al. teaches the transmitter is a remote transmitter (col. 3 line 64-67).

Regarding claims 4 and 27, Brinkmeyer et al. teaches the device controls the yard light (col. 4 lines 48-51).

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Regarding claim 5, Brinkmeyer et al. teaches a transceiver (2a) for receiving the wireless signal and a controller (2b) connected to the transceiver for controlling the yard light and the light is switch based on the controller validating the wireless signal by switching on the light (col. 4 lines 28-31, col. 5 line 61-col. 6 line 10).

Regarding claim 6, Brinkmeyer et al. teaches placing the controller in a learning mode by actuating a program button (col. 4 line 66-67, col. 6 lines 37-52).

Regarding claim 7, Brinkmeyer et al. teaches the transmitter is a remote transmitter (col. 3 line 64-67) and the transmitter is distinguishable from other transmitters based on its identity code (col. 5 lines 64-67).

Regarding claims 8, Brinkmeyer et al. teaches designating a button for barrier operation during a learn mode and programming a button to control a light (col. 6 lines 38-64).

Regarding claims 14-15 and 28 Brinkmeyer et al. a device (3a) that controls an electrical load such as the door of the house (col. 4 lines 29-34). The device is therefore considered a switch because it controls the opening of the door. Brinkmeyer et al. teaches the device includes a transceiver (3a) for receiving control signal (col. 4 lines 30-31) and a controller for validating the control signal (col. 5 line 61-col. 6 line 10).

Regarding claim 29, Brinkmeyer et al. teaches different frequency channels are used to generate signal to the device and the operator (col. 3 line 67-col. 4 line 7).

Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Madau US Patent 6593856 and further in view of Sunan et al. US Patent 5903226.

Regarding claims 9-10 and 12-13, Brinkmeyer et al. teaches transmitting a wireless signal from the remote transmitter to control the light (col. 4 lines 28-31) but is silent on teaching illuminating the light for only a period of time. Sunnan et al. teaches illuminating a light for a predetermine period of time when the garage door is open or closed (col. 5 lines 52-60) in order to provide lighting for the user and to ensure that the light is only turned on when it is needed. Sunan et al. further teaches the transmitter include up/down button (16), delay close button (col. 5 line 60), pet height button (col. 8 lines –33) and a door profile button (col. 7 lines 46-56) in order to provide for the convenient and safe operation of the barrier.

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. in view of Madau as disclosed by Sunan et al. because illuminating the light for a period of time ensure that the light is only turned on when it is needed and the use of up/down button, delay close button, pet height button and a door profile button provides for the convenient and safe operation of the barrier.

Regarding claim 11, Regarding claims 11, Brinkmeyer et al. teaches designating a button for barrier operation during a learn mode (col. 6 lines 38-64) and the control of the barrier is therefore limited to assigned button.

Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Madau US Patent 6593856 and further in view of Dykema et al. US Patent 5661804.

Regarding claim 16, Brinkmeyer et al. teaches a switch to control an electrical load (see response to claim 15) but is silent on teaching the switch comprises a program button and a

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memory device associated with the controller. Dykema et al. in an art related barrier control system teaches a program button operative with said controller; a memory device associated with said controller, and wherein actuation of said program button places said controller in a learn mode such that any valid signal received while in said learn mode is stored in said memory device (col. 6 lines 3-27).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. in view of Madau as disclosed by Dykema et al. because the program button allows new remote controllers to be added to the list of remote devices for controlling the operation of the barrier.

Regarding claim 17, Brinkmeyer et al. teaches the transmitter is a remote transmitter (col. 3 line 64-67) and the transmitter is distinguishable from other transmitters based on its identity code (col. 5 lines 64-67).

Claims 3 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Madau US Patent 6593856 and further in view of Funk US Patent 3971028.

Regarding claims 3 and 26, Brinkmeyer et al. teaches the operator (2b) and the device (3b) both receive wireless signals from the transmitter (1) as shown in figure 1 but is silent on teaching the operator and the device receive signals at the same frequency. Funk in an art related remote control system teaches use multiple receivers receiving signals at the same frequency (col. 1 lines 50-57) in order to facilitate the control of a plurality of devices.

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. in view of Madau as disclosed by Funk because transmitting signal at the same frequency to the operator and the device allows multiple devices to be simultaneously controlled.

Claim 18-23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Madau US Patent 6593856 in view of Dykema et al. US Patent 5661804 and further in view of Welty US Patent 5109222.

Regarding claim 18, Brinkmeyer et al. teaches an operator receiving operating signal from the transmitter (see response to claim 1) but is silent on teaching the operator generating wireless signal. Welty in an art related control system teaches teaches an operator (10) receiving wireless signal and generating a wireless control signal to other system including a garage door (figure 5, col. 7 lines 30-43).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Welty because transmitting a wireless control signal to the garage controller represents an alternative to transmitting a wired signal in the system of Brinkmeyer et al.

Regarding claims 19-20, Brinkmeyer et al. teaches placing the controller in a learning mode by actuating a program button (col. 4 line 66-67, col. 6 lines 37-52) but is silent on teaching a on and off button, and a switch on and switch off indicator connected to the controller. Dykema et al. teaches a program button operative with said controller; a memory device associated with said controller, and wherein actuation of said program button places said controller in a learn mode such that any valid signal received while in said learn mode is stored



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in said memory device (col. 6 lines 3-27). Dykema et al. teaches the system is used to control a light (col. 6 lines 44-48). The controlling of a light inherently includes an on/off switch. Dykema et al. teaches an indicator in the form of LED associated with the controller for indicating various conditions such as on/off (col. 7 lines 25-37). Dykema et al. further teaches the controller initiates illumination of one of said indicators in a predetermined manner (col. 7 lines 23-25).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Dykema et al. because the switches and the indicators provides a more user friendly interface for operating the controller.

Regarding claims 21-23, Brinkmeyer et al. teaches an operator (2) that receives wireless signals to controls a motorized barrier (col. 3 line 64-col. 4 line 4) but is silent on teaching the illumination of indicators. Dykema et al. teaches the receipt of a valid signal enable the operation of the load (col. 6 lines 44-55). Dykema et al. also teaches an indicator in the form of LED associated with the controller for indicating various operating conditions (col. 7 lines 25-37).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Dykema et al. because the indicators provides a more user friendly interface for operating the controller and indicating the status of the controller.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Madau US Patent 6593856 in view of Dykema et al. US Patent 5661804 in view of Welty US Patent 5109222 and further in view of Huang et al. US Patent 6334636.

Regarding claim 24, Brinkmeyer et al. teaches transmitting a control signal to operate the barrier (see response to claim 1) but is silent on teaching actuation of the on button turns the load

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on and precludes said controller from receiving any wireless signals, and wherein actuation of the off button turns the load off and allows the controller to receive any valid wireless signals. Huang et al. in an art related remote locking device teaches a control signal to ignore the locking or unlocking from a remote controller (col. 4 lines 24-29) in order to allow manual operation of the locking mechanism and prevent the use of the remote control while the barrier is manually activated.

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Huang et al. because disabling the wireless receiver when the load is on, enables the manual operation of the locking mechanism and prevent the use of the remote control while the barrier is manually activated.

Claim 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Madau US Patent 6593856 and further in view of Welty US Patent 5109222.

Regarding claims 30-31, Brinkmeyer et al. teaches an operator receiving operating signal from the transmitter (see response to claim 1) but is silent on teaching the operator generating wireless signal. Welty in an art related control system teaches teaches an operator (10) receiving wireless signal and generating a wireless control signal to other system including a garage door (figure 5, col. 7 lines 30-43).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Welty because transmitting a wireless control signal to the

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garage controller represents an alternative to transmitting a wired signal in the system of Brinkmeyer et al.

Claims 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Madau US Patent 6593856 and further in view of Farris et al. US Patent 5949349.

Regarding claims 33 and 37, Brinkmeyer et al. teaches the device comprises a controller (3b) but is silent on teaching a program button and the actuation of the program button places the controller in a learn mode. Farris et al. in an art barrier control system teaches a program button (223) and teaches adding the function code for moving barrier when the function code is received during the activation of the learn mode (col. 8 lines 55-65).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Farris et al. because placing the operating in a learning mode allows new transmitters to be added to the operator memory and render the barrier control system more adaptable.

Regarding claim 34, Brinkmeyer et al. teaches the use of a function button to control the device but is silent on teaching one function button is associated with more than one device. Madau in an art related home automation invention teaches transmitting control signal to operate

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multiple appliances in a home base on the actuation of a single control element of the transmitter (col. 3 lines 3 lines 9-35).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Madau because using a single button of the remote transmitter to control a garage door operator and the device simplifies the operation of the remote control.

Regarding claim 35, Brinkmeyer et al. teaches the devices in the vehicle are associated with transceivers 2a and 1(col. 5 lines 21-25).

Regarding claim 36, Brinkmeyer et al. teaches the devices in the vehicle are associated with transceivers 2a and 1(col. 5 lines 21-25) but is silent on teaching one function button is associated with more than one device. Madau in an art related home automation invention teaches transmitting control signal to operate multiple appliances in a home base on the actuation of a single control element of the transmitter (col. 3 lines 3 lines 9-35).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Madau because using a single button of the remote transmitter to control a garage door operator and the device simplifies the operation of the remote control.

Claims 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeyer et al. US Patent 5940007 in view of Welty US Patent 5109222.

Regarding claim 50, Brinkmeyer et al. teaches an operator (2) that receives wireless signals to controls a motorized barrier (col. 3 line 64-col. 4 line 4) and a device (3a) that controls an electrical load such as the door of the house receiving a wireless control signal (col. 4 lines 29-34). Brinkmeyer et al. is silent on teaching the device and the operator transmit wireless signal. Welty in an art related control system teaches an operator (10) receiving wireless signal

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and generating a wireless control signal to other system including a garage door (figure 5, col. 7 lines 30-43).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Welty because transmitting a wireless control signal to the garage controller represents an alternative to transmitting a wired signal in the system of Brinkmeyer et al.

Regarding claim 51, Brinkmeyer et al. teaches an operator (2) that receives wireless signals to controls a motorized barrier (col. 3 line 64-col. 4 line 4) and a device (3a) that controls an electrical load such as the door of the house receiving a wireless control signal (col. 4 lines 29-34). Brinkmeyer et al. is silent on teaching the device or the operator receive signal at one frequency and transmit signal at a different frequency. Welty in an art related control system teaches an operator (10) receiving wireless signal and generating a wireless control signal to other system including a garage door (figure 5, col. 7 lines 30-43). Welty also teaches receiving at infrared frequency (col. 7 lines 34-39) and transmitting at UHF frequency (col. 7 lines 47-52).

It would have been obvious to one of ordinary skill in the art to modify the system of Brinkmeyer et al. as disclosed by Welty because transmitting a wireless control signal to the garage controller represents an alternative to transmitting a wired signal and receiving the control signal at one frequency and transmitting the signal at a different frequency facilitates systems operating at different frequencies.

Regarding claim 52, Brinkmeyer et al. teaches the device controls the yard light (col. 4 lines 48-51).

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Regarding claim 53, Brinkmeyer et al. a device (3a) that controls an electrical load such as the door of the house (col. 4 lines 29-34). The device is therefore considered a switch because it controls the opening of the door.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



BRIAN ZIMMERMAN  
PRIMARY EXAMINER

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Vernal Brown  
March 13, 2007